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MF

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/275,495 03/24/99 GARTSTEIN

V 7081M

027752 IM52/1002
THE PROCTER & GAMBLE COMPANY
PATENT DIVISION
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EXAMINER

MERCADO, J

ART UNIT

PAPER NUMBER

1745

DATE MAILED:

10/02/01

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Applicant(s)

09/275,495

Applicant(s)

GARTSTEIN ET AL.

Examiner

Mercado A Julian

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-22 and 24-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Remarks

This Office Action is responsive to Applicant's amendment filed August 10, 2001.

The documents cited in IDS papers 2, 3 and 6, previously noted missing from the file, have been located. The examiner regrets any inconvenience or burden imposed on Applicant in attempting to resubmit these documents. Paper 6, however, appears to be a duplicate of Paper 2.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai *et al.*

Nagai has been discussed extensively in the previous Office Action(s). The rejection is maintained for the reasons of record.

With respect to Applicant's amendment now reciting the battery cell to have an internal impedance, it is noted that this feature was previously considered with respect to claim 6. As discussed in a prior Office Action, the circuit is also responsive to the cell internal impedance exceeding a predetermined impedance, wherein such a condition prompts uncoupling of the voltage and preventing overdischarge. (Col. 9 line 40 *et seq* and col. 16 line 59 *et seq*)

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai *et al* as applied for claims 1-7 and 24-27 above, in view of Stewart.

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Nagai and Stewart have been discussed extensively in the previous Office Action(s). The rejection is maintained for the reasons of record. The examiner notes that the scope of claims 8-11 remain unamended as compared to those considered in the previous Office Action.

Applicant's arguments with respect to claims 8-11 appear solely to be directed to these dependent claims incorporating the limitations of claim 1. Thus, Applicant's arguments with respect to these claims are not found persuasive for similar reasons discussed above for claim 1.

Claims 12, 14, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart in view of Shambaugh *et al.*

As discussed previously, Stewart teaches a multiple-cell battery comprising a first and second container [20], battery cell [30] each disposed therein, and respective controllers [80]. A circuit [90] electrically coupled to the controllers uncouples one of the output voltages from terminals [12] and [14] of the multiple-cell battery.

Stewart does not explicitly teach a housing having an output positive terminal electrically connected to a first container positive terminal and an output negative terminal electrically coupled to a second container negative terminal with the first container negative terminal electrically connected to the second container positive terminal. However, Shambaugh teaches such a configuration as illustrated in Figure 1. Thus, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Stewart's invention by employing the instant housing configuration for reasons such as serial connection of the plural battery modules for increased battery capacity and increased operating voltage.

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Applicant's arguments with respect to claim 13 (now canceled), to the extent that they may be applicable to this ground of rejection, have been fully considered, however they are not persuasive. Claim 13 had previously recited a serial connection between the containers. Although Applicant clearly stated that arguments against Stewart would not be reiterated, Applicant's attempt to contrast the claimed invention with respect to Shambaugh as a secondary reference appear piecemeal. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. Applicant's arguments did not directly address the proposed combination of Stewart and Shambaugh. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart in view of Shambaugh *et al* as applied for claims 12, 14, 28 and 29 above, in view of Nagai *et al* as applied for claims 1-7 and 24-27 above.

The rejection is maintained for the reasons of record. The examiner notes that the scope of claims 15-22 remain unamended as compared to those considered in the previous Office Action.

Applicant's arguments with respect to claims 15-22 appear solely to be directed to these dependent claims incorporating the limitations of claim 12. Thus, Applicant's arguments with respect to these claims are not found persuasive for similar reasons discussed above for claim 12.

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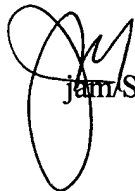
Conclusion

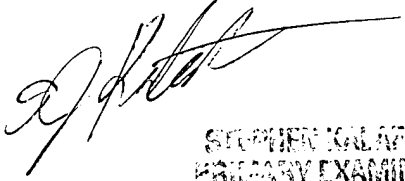
The prior art relied upon in this Office Action will not be provided since it is the same prior art made of record in the previous Office Action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian A. Mercado whose telephone number is (703) 305-0511.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette, can be reached at (703) 308-0756. The official fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599. The unofficial fax number is (703) 306-3429.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

 Jan/September 30, 2001


STEPHEN CALAFUT
PRIMARY EXAMINER
GROUP 1700